

FIRST REGULAR SESSION

HOUSE BILL NO. 1194

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCDANIEL.

2555H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 290.152, 590.050, 590.090, 590.180, and 590.650, RSMo, and to enact in lieu thereof five new sections relating to law enforcement agencies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 290.152, 590.050, 590.090, 590.180, and 590.650, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 71.955, 290.152, 590.050, 590.090, and 590.180 to read as follows:

71.955. 1. Every municipality shall coordinate with local law enforcement agencies to hold an annual "Meet Your Officer" day to be located in a building or park in the municipality that can accommodate at least one hundred individuals.

2. Each law enforcement officer employed by the agencies shall be required to attend the event for at least three hours and may report such hours as training for the purposes of maintaining his or her peace officer license.

3. The public shall be notified of the event in the local newspaper at least one week in advance.

290.152. 1. As used in this section, the following terms shall mean:

(1) "Employer", any individual, organization, partnership, political subdivision, **law enforcement agency**, corporation or other legal entity which has or had in the entity's employ one or more individuals performing services for the entity within this state;

(2) "Prospective employer", any employer, as defined in this subsection, to which an individual has made application for employment, either oral or written, or forwarded a resume or other correspondence expressing an interest in employment.

2. An employer may:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 (1) Respond in writing to a written request concerning a current or former employee
10 from an entity or person which the employer reasonably believes to be a prospective employer
11 of such employee; and

12 (2) Disclose the nature and character of service rendered by such employee to such
13 employer and the duration thereof; and

14 (3) Truly state for what cause, if any, such employee was discharged or voluntarily quit
15 such service. The provisions of this section shall apply regardless of whether the employee
16 becomes employed by the prospective employer prior to receipt of the former employer's written
17 response. The information provided pursuant to this section shall be consistent with the content
18 of any service letter provided pursuant to section 290.140 for the same employee.

19 3. The employer shall send a copy of any letter provided pursuant to subsection 2 of this
20 section to the current employee or former employee at the employee's last known address. The
21 current or former employee may request from the employer a copy of the letter provided pursuant
22 to subsection 2 of this section for up to one year following the date of such letter.

23 4. For purposes of this section, an employer shall be immune from civil liability for any
24 response made pursuant to this section or for any consequences of such response, unless such
25 response was false and made with knowledge that it was false or with reckless disregard for
26 whether such response was true or false.

27 5. Any employer who violates the provisions of subsection 2 of this section shall be
28 liable for compensatory damages but not punitive damages.

29 6. Any letter issued pursuant to this section shall not be admitted as evidence in an
30 unemployment compensation claim.

590.050. 1. The POST commission shall establish requirements for the continuing
2 education of all peace officers. Peace officers who make traffic stops shall be required to receive
3 three hours of training within the law enforcement continuing education three-year reporting
4 period concerning the prohibition against racial profiling, **to be included in determining the**
5 **total hours required of all peace officers**, and such training shall promote understanding and
6 respect for racial and cultural differences and the use of effective, noncombative methods for
7 carrying out law enforcement duties in a racially and culturally diverse environment.

8 2. The director shall license continuing education providers and may probate, suspend
9 and revoke such licenses upon written notice stating the reasons for such action. Any person
10 aggrieved by a decision of the director pursuant to this subsection may appeal as provided in
11 chapter 536.

12 3. The costs of continuing law enforcement education shall be reimbursed in part by
13 moneys from the peace officer standards and training commission fund created in section
14 590.178, subject to availability of funds, except that no such funds shall be used for the training

15 of any person not actively commissioned or employed by a county or municipal law enforcement
16 agency.

17 4. The director may engage in any activity intended to further the professionalism of
18 peace officers through training and education, including the provision of specialized training
19 through the department of public safety.

20 To amend chapter 488, RSMo, by adding thereto one new section relating to the court
21 costs in the twenty-ninth judicial circuit.

590.090. 1. The director shall have cause to suspend immediately the peace officer
2 license of any licensee who:

3 (1) Is under indictment for, is charged with, or has been convicted of the commission of
4 any felony;

5 (2) Is subject to an order of another state, territory, the federal government, or any peace
6 officer licensing authority suspending or revoking a peace officer license or certification; [or]

7 (3) Presents a clear and present danger to the public health or safety if commissioned as
8 a peace officer; or

9 **(4) Was dismissed or voluntarily resigned from employment with one law**
10 **enforcement agency without a good merit status and was employed with another law**
11 **enforcement agency within the same calendar year.**

12 2. **In order to determine if an officer left a law enforcement agency with a good**
13 **merit status under subdivision (4) of subsection 1 of this section, the appropriate agency**
14 **shall submit a letter to the director describing the officer's merit status.**

15 3. At any time after the filing of a disciplinary complaint pursuant to section 590.080,
16 if the director determines that probable cause exists to suspend immediately the peace officer
17 license of the subject of the complaint, the director may, without notice or hearing, issue an
18 emergency order suspending such license until final determination of the disciplinary complaint.
19 Such order shall state the probable cause for the suspension and shall be served upon the licensee
20 by certified mail at the licensee's address of record pursuant to subdivision (2) of subsection 3
21 of section 590.130. Proof of refusal of the licensee to accept delivery or the inability of postal
22 authorities to deliver such certified mail shall be evidence that required notice has been given.
23 The director shall also notify the chief executive officer of any law enforcement agency currently
24 commissioning the officer. The director shall have authority to dissolve an emergency order of
25 suspension at any time for any reason.

26 [3.] 4. A licensee subject to an emergency order of suspension may petition the
27 administrative hearing commission for review of the director's determination of probable cause,
28 in which case the administrative hearing commission shall within five business days conduct an
29 emergency hearing, render its decision, and issue findings of fact and conclusions of law. Sworn

30 affidavits or depositions shall be admissible on the issue of probable cause and may be held
31 sufficient to establish probable cause. The administrative hearing commission shall have no
32 authority to stay or terminate an emergency order of suspension without a hearing pursuant to
33 this subsection. Findings and conclusions made in determining probable cause for an emergency
34 suspension shall not be binding on any party in any proceeding pursuant to section 590.080.

35 [4.] 5. Any party aggrieved by a decision of the administrative hearing commission
36 pursuant to this section may appeal to the circuit court of Cole County as provided in section
37 536.100.

590.180. 1. No arrest shall be deemed unlawful solely because of the licensure status
2 of a peace officer, and evidence on the question cannot be received in any civil or criminal case.

3 2. The name, licensure status, and commissioning or employing law enforcement agency,
4 if any, of applicants and licensees pursuant to this chapter shall be an open record. All other
5 records retained by the director pertaining to any applicant or licensee shall be confidential and
6 shall not be disclosed to the public or any member of the public, except with written consent of
7 the person or entity whose records are involved, provided, however, that the director may
8 disclose such information in the course of voluntary interstate exchange of information, during
9 the course of litigation involving the director, to other state agencies, or, upon a final
10 determination of cause to discipline, to law enforcement agencies. No closed record conveyed
11 to the director pursuant to this chapter shall lose its status as a closed record solely because it is
12 retained by the director. Nothing in this section shall be used to compel the director to disclose
13 any record subject to attorney-client privilege or work-product privilege.

14 3. In any investigation, hearing, or other proceeding pursuant to this chapter, any record
15 relating to any applicant or licensee shall be discoverable by the director and shall be admissible
16 into evidence, regardless of any statutory or common law privilege or the status of any record
17 as open or closed, including records in criminal cases whether or not a sentence has been
18 imposed. No person or entity shall withhold records or testimony bearing upon the fitness to be
19 commissioned as a peace officer of any applicant or licensee on the ground of any privilege
20 involving the applicant or licensee, with the exception of attorney-client privilege.

21 4. **In addition to any records that may be collected by the director under this**
22 **chapter, the director shall maintain a log of peace officers that have been terminated or**
23 **voluntarily resigned in lieu of termination from any law enforcement position. Every**
24 **sheriff shall assist the director by collecting such information from every law enforcement**
25 **agency in his or her jurisdiction and reporting the information to the director. The**
26 **director shall disseminate the statewide log annually to every sheriff in the state.**

27 5. Any person or entity submitting information to the director pursuant to this chapter
28 and doing so in good faith and without negligence shall be immune from all criminal and civil

29 liability arising from the submission of such information and no cause of action of any nature
30 shall arise against such person.

31 [5.] 6. No person shall make any unauthorized use of any testing materials or
32 certification examination administered pursuant to subsection 2 of section 590.030.

2 [590.650. 1. As used in this section "minority group" means individuals
3 of African, Hispanic, Native American or Asian descent.

4 2. Each time a peace officer stops a driver of a motor vehicle, that officer
5 shall report the following information to the law enforcement agency that
6 employs the officer:

7 (1) The age, gender and race or minority group of the individual stopped;

8 (2) The reasons for the stop;

9 (3) Whether a search was conducted as a result of the stop;

10 (4) If a search was conducted, whether the individual consented to the
11 search, the probable cause for the search, whether the person was searched,
12 whether the person's property was searched, and the duration of the search;

13 (5) Whether any contraband was discovered in the course of the search
14 and the type of any contraband discovered;

15 (6) Whether any warning or citation was issued as a result of the stop;

16 (7) If a warning or citation was issued, the violation charged or warning
17 provided;

18 (8) Whether an arrest was made as a result of either the stop or the
19 search;

20 (9) If an arrest was made, the crime charged; and

21 (10) The location of the stop. Such information may be reported using a
22 format determined by the department of public safety which uses existing citation
23 and report forms.

24 3. (1) Each law enforcement agency shall compile the data described in
25 subsection 2 of this section for the calendar year into a report to the attorney
26 general.

27 (2) Each law enforcement agency shall submit the report to the attorney
28 general no later than March first of the following calendar year.

29 (3) The attorney general shall determine the format that all law
30 enforcement agencies shall use to submit the report.

31 4. (1) The attorney general shall analyze the annual reports of law
32 enforcement agencies required by this section and submit a report of the findings
33 to the governor, the general assembly and each law enforcement agency no later
34 than June first of each year.

35 (2) The report of the attorney general shall include at least the following
36 information for each agency:

37 (a) The total number of vehicles stopped by peace officers during the
38 previous calendar year;

39 (b) The number and percentage of stopped motor vehicles that were
driven by members of each particular minority group;

40 (c) A comparison of the percentage of stopped motor vehicles driven by
41 each minority group and the percentage of the state's population that each
42 minority group comprises; and

43 (d) A compilation of the information reported by law enforcement
44 agencies pursuant to subsection 2 of this section.

45 5. Each law enforcement agency shall adopt a policy on race-based traffic
46 stops that:

47 (1) Prohibits the practice of routinely stopping members of minority
48 groups for violations of vehicle laws as a pretext for investigating other violations
49 of criminal law;

50 (2) Provides for periodic reviews by the law enforcement agency of the
51 annual report of the attorney general required by subsection 4 of this section that:

52 (a) Determine whether any peace officers of the law enforcement agency
53 have a pattern of stopping members of minority groups for violations of vehicle
54 laws in a number disproportionate to the population of minority groups residing
55 or traveling within the jurisdiction of the law enforcement agency; and

56 (b) If the review reveals a pattern, require an investigation to determine
57 whether any peace officers of the law enforcement agency routinely stop
58 members of minority groups for violations of vehicle laws as a pretext for
59 investigating other violations of criminal law; and

60 (3) Provides for appropriate counseling and training of any peace officer
61 found to have engaged in race-based traffic stops within ninety days of the
62 review. The course or courses of instruction and the guidelines shall stress
63 understanding and respect for racial and cultural differences, and development
64 of effective, noncombative methods of carrying out law enforcement duties in a
65 racially and culturally diverse environment.

66 6. If a law enforcement agency fails to comply with the provisions of this
67 section, the governor may withhold any state funds appropriated to the
68 noncompliant law enforcement agency.

69 7. Each law enforcement agency in this state may utilize federal funds
70 from community-oriented policing services grants or any other federal sources
71 to equip each vehicle used for traffic stops with a video camera and
72 voice-activated microphone.

73 8. A peace officer who stops a driver of a motor vehicle pursuant to a
74 lawfully conducted sobriety check point or road block shall be exempt from the
75 reporting requirements of subsection 2 of this section.]

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